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LAW OFFICES
of
T. SCOTT BANNISTER AND ASSOCIATES
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April 16, 2012

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20024

RECEIVED
APR 17 2012
MANAGEMENT
SIS
VIA FEDEX
RECEIVED
APR 17 2012
MANAGEMENT
SIS

Re: STB Docket No. AB-1072X
Iowa River Railroad, Inc.

Dear Ms. Brown:

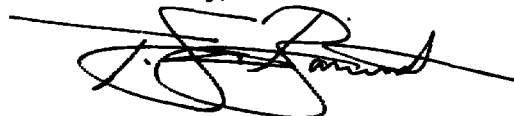
I am enclosing an original and ten (10) copies of the Petition for Exemption to Abandon on behalf of Iowa River Railroad, Inc.

I have also enclosed the required filing fee check in the amount of \$6,300.

Your assistance is appreciated.

ENTERED
Office of Proceedings
APR 17 2012
Public Record

Sincerely,



T. Scott Bannister

Cc: Maury Hyde
James Broghammer
Rick Vaughan

Enclosures

FILED
APR 17 2012
SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

RECEIVED
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STB
WASHINGTON

**IOWA RIVER RAILROAD, INC. –
ABANDONMENT AND DISCONTINUANCE
EXEMPTION IN MARSHALL
AND HARDIN COUNTIES, IOWA**

STB DOCKET NO. AB-1072 X

PETITION FOR EXEMPTION

FEE RECEIVED
APR 17 2012
SURFACE
TRANSPORTATION BOARD

IOWA RIVER RAILROAD, INC.
P.O. Box 538
Eldora, IA 50627

Petitioner

T. SCOTT BANNISTER, ESQ.
111- SW 56th Street
Des Moines, IA 50312
(319) 361-3067
tsbannisterlaw@gmail.com

Attorney for Petitioner

ENTERED
Office of Hearings

APR 17 2012

Public Record

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Office of Hearings

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Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

**IOWA RIVER RAILROAD, INC. –
ABANDONMENT AND DISCONTINUANCE
EXEMPTION IN MARSHALL
AND HARDIN COUNTIES, IOWA**

STB DOCKET NO. AB-1072 X

PETITION FOR EXEMPTION

INTRODUCTION

Petitioner, Iowa River Railroad, Inc. ("IRR"), pursuant to 49 U.S.C. § 10502(a), 49 C.F.R. § 1152.60, and 49 C.F.R. § 1121.1, *et seq.*, petitions for an exemption from the requirements of 49 U.S.C. § 10903 for abandonment of a rail line located between Milepost 209.00 and Milepost 243.35 (at or near Marshalltown, Iowa), all within Marshall and Hardin Counties, Iowa, a distance of approximately 34.35 miles (the "Line").

The facts set forth in the Petition are verified by IRR's President, Mr. Maury Hyde, in the attached Verification (**Appendix 1**).

THE HISTORY OF THE LINE

The subject Line extends between Milepost 209.00 and Milepost 243.35 (at or near Marshalltown, Iowa), all within Marshall and Hardin Counties, Iowa, a distance of approximately 34.35 miles. A map of the Line is attached (**Appendix 4**).

The history of the Line commences in 1866 during which the Eldora Railroad and Coal Company constructed a rail line from approximately one mile north of Eldora, Iowa to Ackley, Iowa for the purpose of transporting coal from the Coal Bank Hill area in the Iowa River valley near Eldora to the connection at Ackley of an east-west railroad, then known as the Dubuque & Sioux City Railroad (which later became the Illinois Central Railroad).

After the original Eldora-Ackley rail line was constructed the Line was extended between 1868 and 1870 both to the north to Northwood, Iowa and south to Marshalltown, Iowa where it connected with the Chicago & North Western Railroad ("CNW"). The ownership of the Line went through several name changes during the early years: 'Central Railroad of Iowa', 'Central Iowa Railroad' and 'Iowa Central Railroad'. The Iowa Central line served the communities of Steamboat Rock, Eldora, Gifford, Union, Liscomb, Albion and Marshalltown, Iowa.

Later, the Line became part of an expanded north-south route between Minneapolis/St. Paul, Minnesota and Kansas City, Missouri. Iowa Central Railroad and the Minneapolis & St. Louis Railroad Company ("M&StL") merged on January 1, 1912 with M&StL being the surviving carrier. Passenger service on the Line by M&StL ended in the mid 1950's. On November 1, 1960 CNW purchased the M&StL and the subject Line was deeded to CNW at that time.

In 1983 CNW acquired from the Chicago, Rock Island and Pacific Company ("CRIP") the parallel CRIP north-south main line and thereafter, CNW rerouted its Minneapolis-Kansas City traffic over that CRIP "Spine Line" and the CNW's north-south former M&StL main line was reduced to local service only. CNW then abandoned much of the former Iowa Central/M&StL line, parts of which were either scrapped or "railbanked".

CNW was acquired by Union Pacific Railroad Corporation ("UP") in 1995.

On March 3, 2006, Petitioner, Iowa River Railroad, Inc. was organized as an Iowa corporation by shippers with facilities located adjacent to the Line. IRR purchased the Line from UP on June 16, 2006 pursuant to a class exemption in *Iowa River Railroad, Inc.- Acquisition and Operating Exemption-Rail Lines of North Central Railway Association, Inc., and Union Pacific Railroad Company* – STB Finance Docket No. 34877 (Decision served July 5, 2006).

The shippers which formed and capitalized IRR were the following: Prairie Land Cooperative located at Union, Iowa; United Suppliers, Inc. located near Steamboat Rock, Iowa and PLCP located north of

Steamboat Rock, Iowa. The goal of these IRR shippers/owners was to preserve the option to transport their goods by rail to/from their respective facilities and to operate a short line railway for rail service.

However, the historic flooding experienced in Iowa during 2008 caused a substantial amount of damage to the IRR track infrastructure and resulted in IRR being unable to operate for several months. Between the cost of approximately \$250,000 to repair the flood damage and operating losses resulting from the IRR operations being curtailed, IRR has been unable to financially recover. Due to IRR capital calls and additional revenue needs of IRR arising from guarantees to IRR the shippers/owners were obligated to pay to IRR \$539,820 during 2010 and \$518,545 during 2009. Without those additional payments to IRR during 2009 and 2010 IRR would have been cashless and would have had to file for bankruptcy protection.

The Line was embargoed due to unsafe track conditions effective as of December 27, 2011.

REASONS FOR ABANDONMENT

An exemption is sought for abandonment of the Line because (1) the operation of the Line is unprofitable and there is no reasonable prospect for future, profitable operations; (2) the Line's track and bridge structures require extensive rehabilitation, the cost of which would not be recoverable from operational net revenues; (3) continued operation of the Line would result in substantial opportunity costs; and (4) all shippers with facilities located adjacent to the Line have reasonable transportation alternatives.

1. Unprofitability

The following shippers used the services of IRR on the subject Line during the past four years:

<u>Name</u>	<u>Location</u>	<u>Commodities Shipped/Received</u>
United Suppliers, Inc.	Eldora, Iowa	Fertilizers, ag chemicals
Prairie Land Cooperative	Union, Iowa	Corn, fertilizers
Quality Products	Eldora, Iowa	Plastic pellets
New Century Farm Service	Albion, Iowa	Fertilizers, chemicals

These shippers' carload usage of the Line during the prior four years is as follows:

	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
<u>United Suppliers, Inc.</u>	141	147	127	93
<u>Prairie Land Cooperative</u>	24	20	35	25
<u>Quality Products</u>	20	26	37	44
<u>New Century Farm Service</u>	0	0	0	48
<u>Total Carloads:</u>	185	193	199	210

Based on actual use of the Line during 2008, 2009, 2010 and 2011 there is no evidence that future use of the Line will substantially increase. In fact, the total usage has varied by only a small percentage annually over the four year period. That base traffic is wholly insufficient to cover annual operating costs, much less needed track and right-of-way maintenance and repairs. There is also no indication that any other shipper other than the shippers listed above has any plans to locate a facility along the Rail Line and to ship by rail. Because the area served by the Line is rural, it is less likely that any new large-scale rail-served industry will locate on the Line in the future.

The revenues generated from operating the Line do not cover the cost of operations, maintenance and rehabilitation. Total gross revenues for the year 2010 from the non-owner shippers on the subject Line were \$69,500 and for 2009 gross revenues from traffic handled on the Line were \$64,615.

On average that represents an average of \$330 per car in 2010 and \$323 per car in 2009. Even assuming a modest increase of five percent in carloadings during the next calendar year gross revenue of \$72,600 (\$330 x 220 cars), such revenue would be far below what is needed to enable IRR to operate the Line at a profit in a forecast year.

The cost for IRR to maintain on a normalized basis the track and bridges on the Line is approximately \$206,100 during a forecast year. That is based on an average maintenance cost of \$6,000 per mile per year which the Board has indicated is a reasonable estimate in similar abandonment cases. (\$6,000 per

mile x 34.35 miles = \$206,100). *Conrail- Abandonment between Warsaw & Valp. Counties, IN*, 9 I.C.C. 2d 1299, 1304 (1993).

Taking into consideration only normalized maintenance costs, IRR will incur an operating loss of \$133,500 during the forecast year. Typically a two-person train crew operates a single locomotive originating at near Steamboat Rock, Iowa, and operating round-trip approximately 68 miles between Steamboat Rock and Marshalltown, Iowa. The operating costs of the train crew, locomotive, and freight cars are substantial and increase the Line's forecast year loss.

Requiring the IRR to bear operating losses in excess of \$133,500 per year on a continuing basis would result in a serious, continuing, adverse effect on IRR and on IRR's ability to provide safe and efficient rail service. It would violate Constitutional principles if a railroad were to be required to operate a rail line at a loss for an extended period of time. *Brooks-Scanlon v. Railroad Comm. of Louisiana*, 251 U.S. 396, 399 (1920).

2. Rehabilitation

IRR has been unable to provide adequate track infrastructure and bridge maintenance which could help to minimize operating losses and opportunity costs. As a result, there has been a substantial deterioration in the Line. This situation was dramatically aggravated by the disastrous floods experienced during the summer of 2008.

There are several IRR bridges which are in serious need of extensive repair at the following estimated repair costs:

Bridge No. 239.8
Replace w/culvert
\$18,500

Bridge No. 238.93
Repair south wall
Replace cap 7
\$18,000

Bridge No. 237.8
Replace cap and pier 2
\$17,000

Bridge No. 227.45
Replace ties, sway braces, and guard rail
\$30,000

Bridge No. 227.35
Sway braces
\$10,000

Bridge No. 227.13
Post bent 11, cap 10, and sway braces
\$12,500

Bridge No. 221.74
Replace 3 caps, sway braces, and 6 piers
\$32,000

Bridge No. 221.34
Replace ties, and cap 9
28,000

Total Bridge Rehabilitation Costs: \$166,000

The Line has also excessive defective crossties and serious track alignment, cross-level and gauge problems in at least two curve sections of the Line which result in the Line being noncompliant with FRA Class I standards. Defective rails exist at several locations. Replacement of the track infrastructure in track curve sections in the area of MP 215.0 (North of Eldora, Iowa) and a track curve section located at MP 223.5 (near Union, Iowa) will cost an estimated \$87,730 each or a total of \$175,000.

It is extremely questionable that IRR will ever be able to provide safe train service of any kind over the Line. As a result, IRR embargoed rail operations over the Line due to track conditions, effective December 27, 2011. A copy of that embargo is attached (**Appendix 3**).

In order to achieve FRA Class I track safety standards for the Line, it is estimated that it would cost more than \$3.69 million to rehabilitate the track and bridges on the Line. The elements of such rehabilitation are set forth below:

1. Crosstie Replacement - Six defective ties per 39-foot rail length (6 ties x 135 rail lengths per mile x 35 miles x \$85) - \$2,409,750
2. Ballast - \$3,363 per carload, eight carloads per mile, 35 miles - \$941,640

3. Bridge Repairs - \$166,000
4. Track curve sections - \$175,000

TOTAL: \$3,692,390

There is no possibility that IRR would be able to recover that cost from profit from operating the Line because operation of the Line will result in a substantial operating loss. It would be a serious burden on IRR and on interstate commerce if a requirement of continued operation of the Line were to force IRR to incur an unrecoverable cost of over \$3.69 million for required track and bridge rehabilitation.

3. Opportunity Cost

Opportunity costs are measured by the extent to which profit from operating a rail line falls short of providing a cost-of-capital return on the net liquidation value of the assets of the rail line. In addition to suffering operating losses and unrecoverable rehabilitation costs if required to continue to operate the Line, IRR will also be burdened as a result of incurring significant opportunity costs.

The net liquidation value of the Line is currently estimated to be \$95,000 per mile for the 34.35 miles of the Line which amounts to total net liquidation value of \$3,263,250. The most recent cost of capital of the rail industry is 11.03 percent per year. *Railroad Cost of Capital- 2011 Determination, Ex Parte No. 558 [Sub-No. 14]*. Applying the Board's adopted cost of capital to the net liquidation value results in a cost of capital return of \$359,936 per year on that value, which constitutes an additional undue burden on IRR and interstate commerce.

In the event an Offer of Financial Assistance is filed in this proceeding IRR reserves the right to perform a more detailed study of the net liquidation value of the Line.

4. Transportation Alternatives

Any adverse impact on the shippers from abandonment will not be major because there are many reasonable transportation alternatives for all of the shippers.

Facilities for rail-to-truck transloading of plastic pellets for Quality Products, Inc. are located at Newton, Iowa which is only 48 highway miles from Eldora, Iowa

Transloading of agricultural chemicals for United Suppliers, Inc. is currently occurring at a facility located north of Steamboat Rock and south of Ackley, Iowa (at the interchange with the CN east/west main line) and only 9 miles from Eldora, Iowa.

The UP owns and operates its transcontinental east/west main line at Marshalltown, Iowa at the southern terminus of the subject Line. In addition, the UP's north/south 'spine line' has major grain storage and loading facilities located at Garden City, Iowa (which is also owned by Prairie Land Cooperative and just 12 miles from Prairie Land's grain facility located on the subject Line at Union, Iowa) and at Buckeye, Iowa (11 miles west of Steamboat Rock, Iowa).

There is excellent highway access between various points on the subject Line via U.S. Highway 65 and State Highways 14, 175 and 215/118. U.S. Interstate Highway 35 is only between 20 and 25 miles from any point of the Line. Extensive trucking services and truck competition exist in the area.

Any increase in freight charges upon abandonment of the Line as a result of a shipper's use of truck-rail or all-truck transportation will be modest and the added expense is greatly outweighed by the serious harm to IRR and to interstate commerce resulting from continuing operating losses and opportunity costs, and from a substantial unrecoverable track and bridge rehabilitation cost. *Conrail- Aban. - supra*, 9 I.C.C.2d at 1317.

AN EXEMPTION IS WARRANTED

Pursuant to 49 U.S.C. §10903, a rail line may not be abandoned without the prior approval of the Board. However, pursuant to 49 U.S.C. § 10502(a), on petition, the Board may exempt a proposed abandonment from the requirements under §10903 when the Board finds that 1) the application of the statutory provisions is not required to carry out the rail transportation policy of 49 U.S.C. § 10101, and 2) either that the proposed abandonment is of limited scope or that application of §10903 to the proposed abandonment is unnecessary to protect shippers from abuse of market power.

The IRR abandonment request clearly falls within the statutory exemption standards set forth in Section 10502.

An exemption is appropriate where the rail carrier would operate at a substantial loss, regardless of whether any shipper opposes the exemption. *Minnesota Northern Railroad, Inc. -- Aband. Exempt. -- between Redland Jct. and Fertile, in Polk County, MN, 1997 STB LEXIS 294 (STB Docket No. AB-497 [Sub-No. 2X], decision served Nov. 14, 1997 at 11-12).*

In this proceeding the public convenience and necessity permit abandonment of the Line. Normalized maintenance costs and continued operation of the Line would result in a forecast annual operating loss of over \$133,500. The loss would be far greater if applicable operating costs for the train crew, locomotive and freight cars were to be factored into the result. In consideration of actual Line traffic during the prior four years, there is no realistic prospect for a traffic level which would allow operation of the Line to approach profitability.

Add to that the substantial cost of needed track and bridge rehabilitation estimated to cost over \$3.69 million and the need to amortize that within a reasonable period of time and the burden of further operation is simply impossible. It is not in the public interest to require a rail carrier to incur a substantial rehabilitation cost that it has no hope of recovering. *Purcell v. United States*, 315 U.S. 381, 384 (1942).

The burden on IRR and on interstate commerce resulting from continued operation of the Line far outweighs the relatively minimal burden on the shippers, if any, from the Line's abandonment.

The shippers have reasonable transportation alternatives. The proposed 34.35 mile abandonment is limited in scope. As a result application of 49 U.S.C. § 10903 concerning the proposed abandonment is not necessary to protect shippers from an abuse of market power. *Minnesota Northern Railroad, Inc. -- Aband. Exempt. -- between Redland Jct. and Fertile, in Polk County, MN, supra.*

For the foregoing reasons, application of 49 U.S.C. § 10903 to IRR's proposed abandonment of the Rail Line is not necessary to carry out the rail policy of 49 U.S.C. § 10101(4) or any other national rail policy. The evidence warrants the findings required by 49 U.S.C. § 10502(a) and the Board should grant the proposed exemption.

ENVIRONMENTAL AND HISTORIC REPORTS

The IRR Environmental and Historic Report is attached (**Appendix 4**). The Report forms the basis for a finding that the proposed abandonment would not have a significant adverse effect on the quality of the human environment nor on the preservation of historic resources. Comments concerning the draft Report are attached to Appendix 5.

EMPLOYEE PROTECTION

The Board should impose the employee protective conditions in *Oregon Short Line R.Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979) as a condition to approval of the proposed abandonment.

FEDERALLY-GRANTED RIGHT-OF-WAY

IRR has no information in its possession to conclude that the Line contains any federally-granted right-of-way.

DRAFT FEDERAL REGISTER NOTICE

A draft Federal Register Notice is attached to this Petition (**Appendix 5**).

NEWSPAPER NOTICE

Copies of notices published in a newspaper of general circulation in Hardin and Marshall Counties, Iowa are attached (**Appendix 6**).

VERIFICATION

The Verification of Maury Hyde, President of Iowa River Railroad, Inc., is attached as **Appendix 1** of this Petition.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, Iowa River Railroad, Inc. respectfully requests that the Board grant this Petition for Exemption.

Respectfully submitted,

IOWA RIVER RAILROAD, INC. (*Petitioner*)

A handwritten signature in black ink, appearing to read 'T. Scott Bannister', is written over a horizontal line.


T. Scott Bannister, Esq.
111- SW 56th Street
Des Moines, IA 50312
(319) 361-3067
tsbannisterlaw@gmail.com

Attorney for Petitioner

APPENDIX 1

VERIFICATION

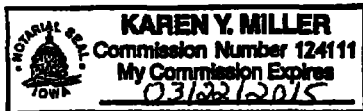
Maury Hyde, being duly sworn, states that he is President of Iowa River Railroad, Inc., that he has knowledge of the facts asserted in the foregoing Petition for Exemption and that those facts are true and correct.

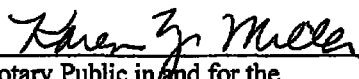

Maury Hyde, President

STATE OF IOWA)

COUNTY OF ~~POLK~~)
 Hardin

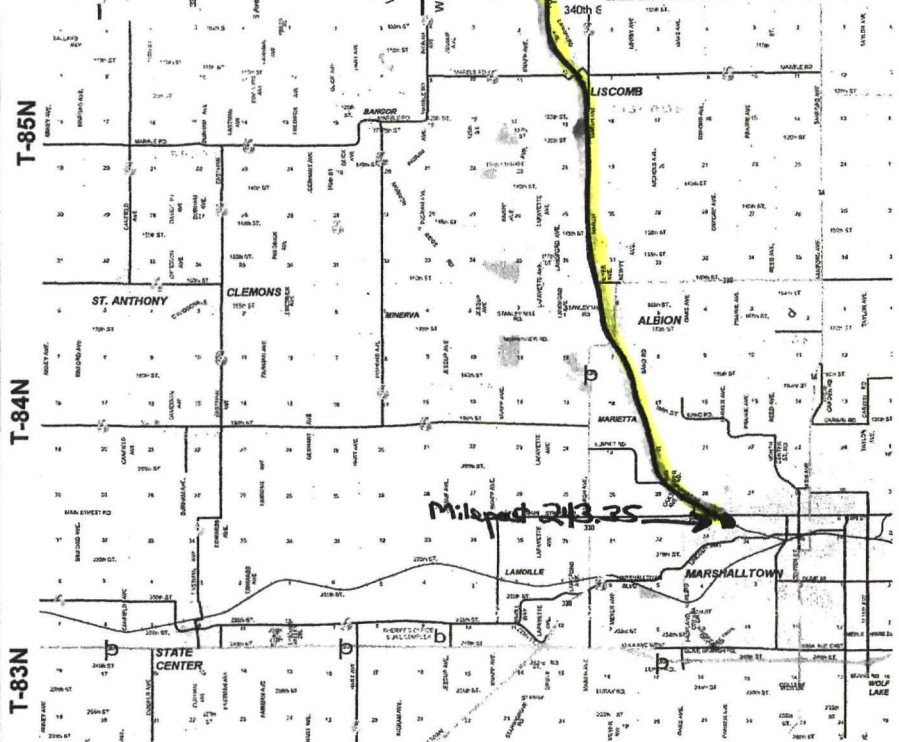
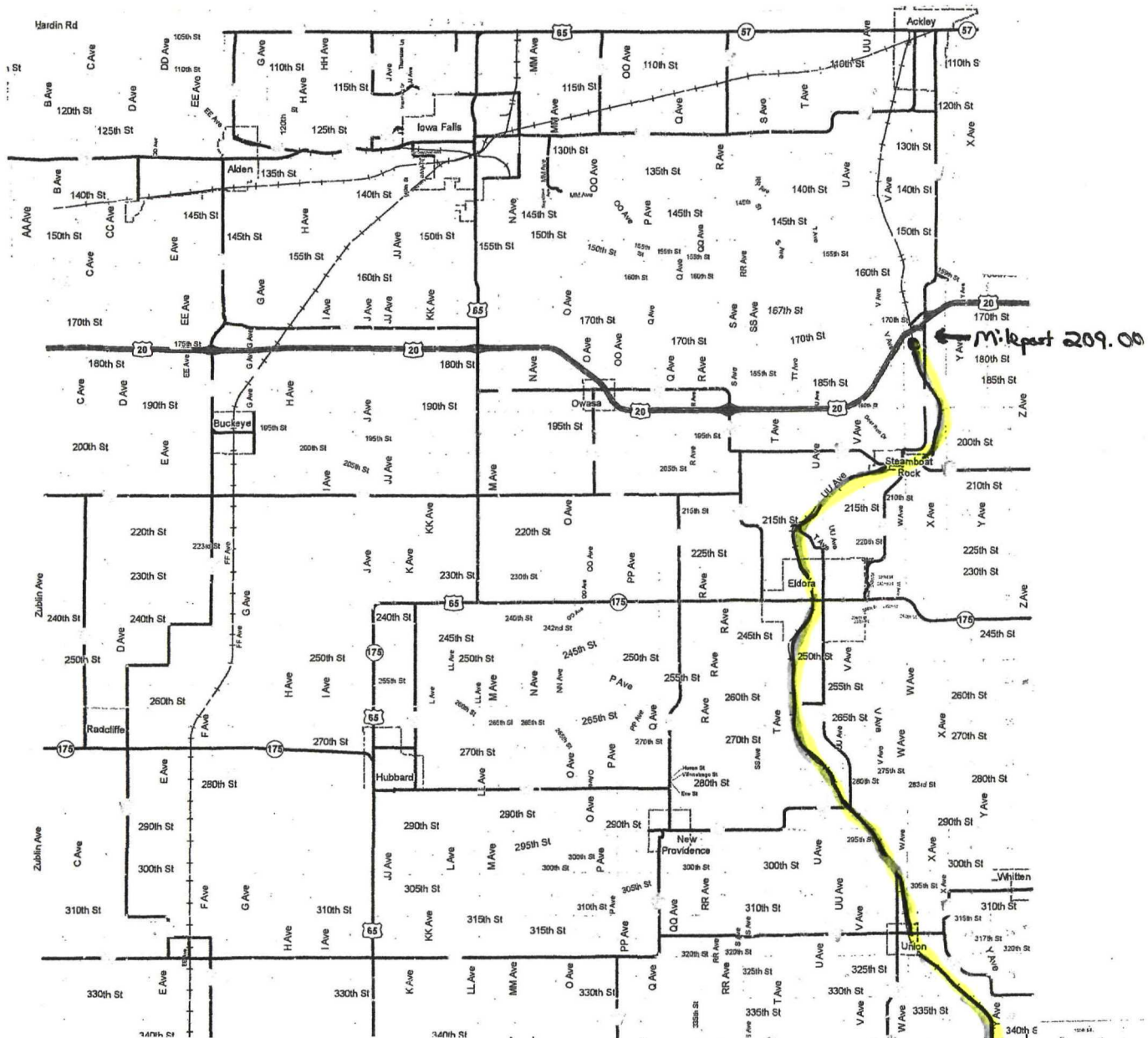
On this 28th day of March, 2012, before me, the undersigned, a Notary Public in and for said County, in said State, personally appeared Maury Hyde, to me personally known, who being by me duly sworn, did say that he is the President of Iowa River Railroad, Inc.; that no seal has been procured by the said corporation; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that said he as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.




Notary Public in and for the
State of Iowa

APPENDIX 2

MAP OF THE LINE



APPENDIX 3

EMBARGO NOTICE

Embargo Number: IARR000111

IARR- IOWA RIVER RAILROAD INC

Embargo #IARR000111 has been amended on 01-03-2012

Amendment Number: 3

Status: Effective

Effective Date: 12-27-2011

Expiration Date: 12-27-2012

Allow Permit: No

Tier 2 Effective Date: 12-30-2011

Original Effective Date:

Roads Invited to Participate:

Original Requester : Scott Bannister - Ph: 1.319.361x3067 - Email: tsbannisterlaw@gmail.com

Bypass Local Waybills: Yes

Operating Station Notice: No

Effective Immediately: No

Include Empty Revenue Cars: Yes

Include All Empty Cars: No

Maximum Car Allowed: 0

Commodities: Target All Commodities

Geography: Included Locations:

From: IARR-24320,MARSHALLTOWN,IA

IARR-23260,BETHEL,IA

IARR-23950,MINERVA JCT,IA

IARR-23650,ALBION,IA

IARR-22600,UNION,IA

IARR-21250,STEAMBOAT ROCK,IA

IARR-21680,ELDORA,IA

IARR-22220,GIFFORD,IA

IARR-23100,LISCOMB,IA

To: *BI-DIRECTIONAL

Umler Equip. Type : Target All Umler Equipment Types

No Weight Restrictions

Except These Cars: No Cars In Exception List

Embargo/OPSL Umler Element Status: No Umler Element

Clearance Code: No Clearance Code

Waybill Parties: Target All Waybill Parties

Cause: Track Conditions

Cause Detail: Bridges out of service

Note:

Amendment History:

Amendment 3 (Current): Removed participating railroad(s) from embargo

Amendment 2: Add/Remove Stations by Participant

Amendment 1: Add/Remove Stations by Participant

Jeffrey J. Usher

Asst. Vice President-Business Services

Association of American Railroads

AAR Embargo/OPSL Notes And Permit System (<https://aarembargo.railinc.com/epdb>)

APPENDIX 4

Combined Environmental and Historic Report

BEFORE THE
SURFACE TRANSPORTATION BOARD

IOWA RIVER RAILROAD, INC.

STB DOCKET NO. AB-1072 X

ABANDONMENT AND
DISCONTINUANCE EXEMPTION
IN MARSHALL AND
HARDIN COUNTIES, IOWA

COMBINED ENVIRONMENTAL
AND HISTORIC REPORT

Applicant, Iowa River Railroad, Inc., hereby submits the following information pursuant to 49 C.F.R. Part 1105:

ENVIRONMENTAL REPORT

(1) **Proposed Action and Alternatives -**

- (i) The proposed action is an exemption proceeding described as involving the discontinuance of operations and physical abandonment of a line of railroad between Milepost 209.00 and Milepost 243.35 (at or near Marshalltown, Iowa), all within Marshall and Hardin Counties, Iowa, a distance of approximately 34.35 miles (the "Line").
- (ii) The only practical alternative to the proposed abandonment is denial. Denial would maintain the status quo and Applicant would continue to incur substantial operating losses, track rehabilitation costs, and opportunity costs unless the Line was to be abandoned. A copy of detailed maps of the rail Line to be abandoned are attached hereto pursuant to the provisions of 49 C.F.R 1105.7(e)(1). (**Exhibit "A"**).

(2) **Transportation System -**

- (i) The proposed abandonment will have minimal effect on existing regional or local transportation systems or patterns. Only 192 carloads were transported over the Line during 2010 of which 155 cars were shipped for two of the shareholder/owners of Applicant (a remaining 37 cars were shipped during 2010 by a non-affiliated shipper located in Eldora, Iowa). Those rail shipments would be diverted to truck or to truck-rail transportation.

(3) Land Use -

- (i) To the best of Applicant's knowledge, and based upon consultation with the local county governments, the proposed abandonment is consistent with regional and local land use plans. It is possible that, following abandonment, portions of the land underlying the Line may be converted to a recreational trail.
- (ii) The proposed abandonment would have no effect on prime agricultural land. The Line is primarily in a rural setting. Removal of trackage from the Line should not have any effect on prime agricultural land. Based upon consultation with the U.S. Soil Conservation Service, there are no prime agricultural lands within the right of way that would be adversely affected by the proposed action.
- (iii) There are no designated wetlands or 100-year flood plains which would be adversely affected, although there may be some wetlands which could be found outside the railroad right-of-way boundaries.
- (iv) Portions of the rail Line right-of-way may be suitable for alternative public use such as a recreational trail.

4. Energy -

(i & ii) The proposed abandonment will have no major adverse effect on the development or transportation of energy resources, or on the movement and/or recovery of recyclable commodities.

(iii & iv) The proposed abandonment will not cause a diversion of traffic from rail to motor carriers in excess of 1,000 cars per year nor will it divert in excess of an average of 50 rail cars per mile per year for all or a portion of the Line. As a result, no energy calculations were made.

(5) Air -

The proposed abandonment will not result in a) a minimum increase in rail traffic of 50% of three (3) trains per day or (b) an increase in rail yard activity of 20% as measured in carload activity. The proposed action will not cause an increase in motor carrier traffic of either fifty (50) vehicles per day or an increase in truck traffic on a given highway segment. Class 1, or non-attainment areas, are not affected, and there should be no increase in rail yard activity.

(6) Noise -

No threshold identified in item 5 (i) of 49 C.F.R. 1105.7 is surpassed.

(7) Safety -

The proposed abandonment will have no major effect on public health or safety. There are no known hazardous waste sites or spills on or along the Line. Because existing rail crossings of public and private grade crossings will be able to be removed the proposed abandonment will have a beneficial effect on public health and safety.

(8) Biological Resources -

- (i & ii) Based upon consultation with the U.S. Fish and Wildlife Service, it is not anticipated that any long term, adverse effects on endangered species or critical habitats would result, and no wildlife sanctuaries, state parks, or refuges will be adversely affected by the proposed abandonment.

(9) Water -

- (i) Based upon consultation with the State of Iowa Water Quality Officials, the proposed abandonment is consistent with applicable federal, state and/or local water quality standards.
- (ii & iii) Permits under the Federal Clean Water Act are not required, based upon consultation with the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the Iowa Department of Natural Resources. No designated wetlands or 100-year flood plains will be affected. Applicant's anticipated plans for salvage operations include the removal of all ties, bridge decking materials, rail and track fastenings. Material which cannot be reused elsewhere will be sold for scrap. Grade crossings restoration will be pursuant to local highway jurisdictional requirements. Bridges will not be removed especially in light of the right-of-way's anticipated future use as a recreational trail. Box culverts are left in place to facilitate drainage.

(10) Proposed Mitigation -

- (i) Because there should be no adverse environmental impacts from the proposed abandonment of the rail Line, there are no actions which are to be taken to mitigate nonexistent impacts.

- (ii) No culturally significant locations, archaeological sites, or unique land forms are affected. Salvaging of an abandoned line is confined to limits of the right-of-way and it is unlikely that any archaeological sites in or adjacent to the Line segment would be affected, since there are no major excavations anticipated during salvage operations.

(11) Other -

Correspondence received from local, state or federal agencies which have reviewed this matter is attached, marked **Exhibit "B"** and incorporated herein by this reference.

HISTORIC REPORT

49 C.F.R. § 1105.8 (d)

(1) A U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action;

Response: The required topographic map is attached to this Report as **Appendix 1**.

(2) A written description of the right-of-way (including approximate widths to the extent known), and the topography and urban and/or rural characteristics of the surrounding area;

Response: The right-of-way is generally less than 100 feet wide. It is located entirely within Hardin County, Iowa, which has a population of approximately 18,812, and Marshall County, Iowa which has a population of approximately 39,259. The surrounding area is primarily rural in nature.

(3) Good quality photographs (actual photographic prints, not photocopies) of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.

Response: There are four (4) railroad-owned structures which Applicant believes are 50 years old or older. Photographs of the bridges on the Line are attached as **Appendix 2**.

(4) The date(s) of construction of the structure(s), and the date(s) and the extent of any major alternations to the extent such information is known.

Response: Unknown.

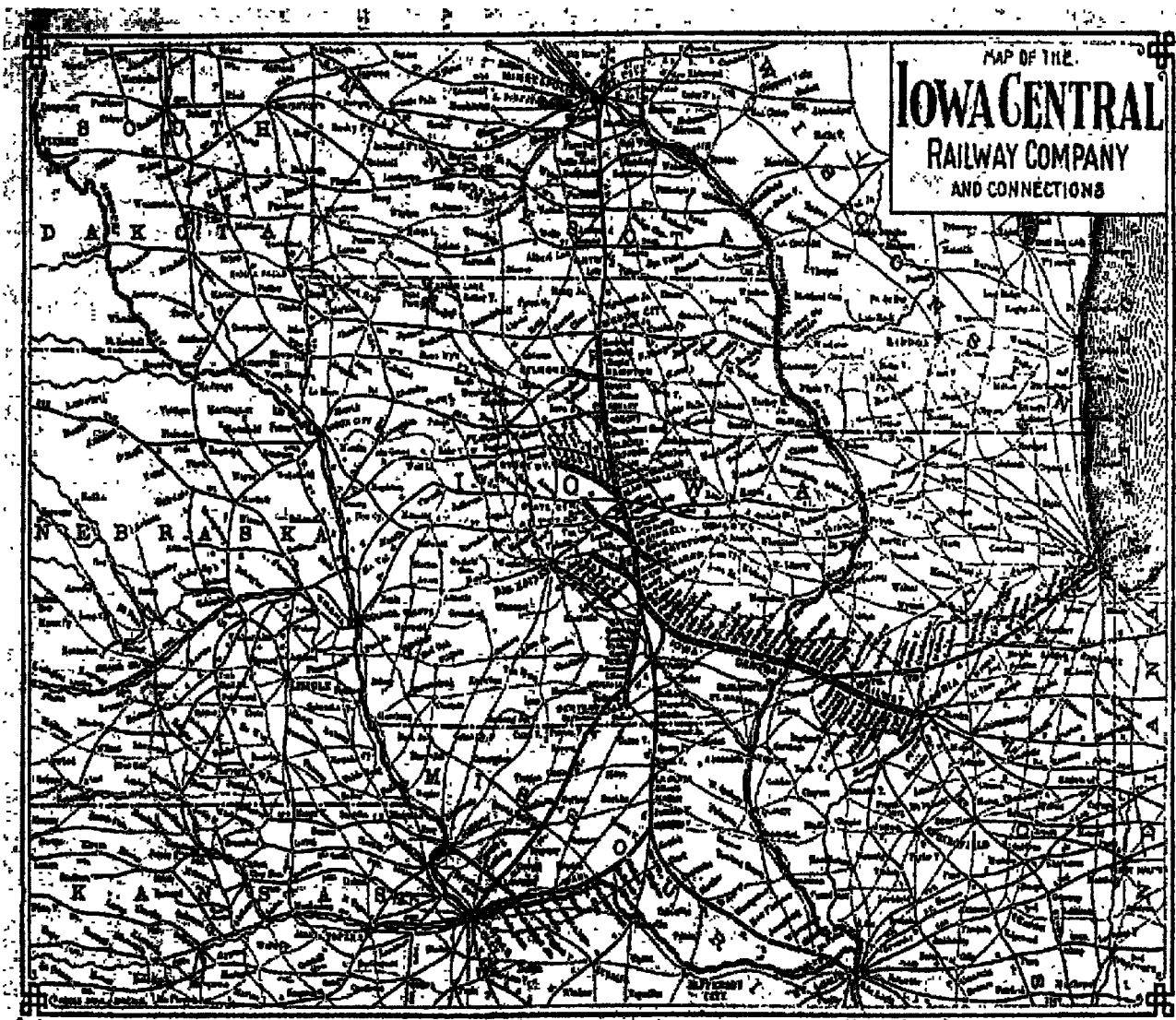
(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action;

Response: The history of the Line commences in 1866 during which the Eldora Railroad and Coal Company constructed a rail line from approximately one mile north of Eldora, Iowa to Ackley, Iowa for the purpose of transporting coal from the Coal Bank Hill area in the Iowa River valley near Eldora to the connection at Ackley of an east-west railroad, then known as the Dubuque & Sioux City Railroad (which later became the Illinois Central Railroad).

After the original Eldora-Ackley rail line was constructed the Line was extended between 1868 and 1870 both to the north to Northwood, Iowa and south to Marshalltown, Iowa where it connected with the Chicago & North Western Railroad ("CNW"). The ownership of the Line went through several name changes during the early years: 'Central Railroad of Iowa', 'Central Iowa Railroad' and 'Iowa Central Railroad'. The Iowa Central line served the communities of Steamboat Rock, Eldora, Gifford, Union, Liscomb, Albion and Marshalltown, Iowa.

Later, the Line became part of an expanded north-south route between Minneapolis/St. Paul, Minnesota and Kansas City, Missouri. Iowa Central Railroad and the Minneapolis & St. Louis Railroad Company ("M&StL") merged on January 1, 1912 with M&StL being the surviving carrier. Passenger service on the Line by M&StL ended in the mid 1950's.

A copy of the Iowa Central Railroad system from the late 1890s follows:



Chicago and North Western Railway Company ("CNW") purchased the M&StL on November 1, 1960 and the subject Line was deeded to CNW at that time.

In 1983 CNW acquired from the Chicago, Rock Island and Pacific Company ("CRIP") the parallel CRIP north-south main line and thereafter, CNW rerouted its Minneapolis-Kansas City traffic over that CRIP "Spine Line" and the CNW's north-south former M&StL main line was reduced to local service only. CNW then abandoned much of the former Iowa Central/M&StL line, parts of which were either scrapped or "railbanked".

CNW was acquired by Union Pacific Railroad Corporation ("UP") in 1995.

On March 3, 2006, Applicant, Iowa River Railroad, Inc. was organized as an Iowa corporation by shippers with facilities located adjacent to the Line. Applicant purchased the Line from UP on June 16, 2006.

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic;

Response: There are no drawings available.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R., 60.4), and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

Response: There would be no adverse effects. The Line does not include any stations or sidings where historically or architecturally significant company constructed-buildings exist.

Abandonment of the right-of-way and possible leveling of the grade would not affect any archaeological evidence since the property would only be returned to its original usage. Any alterations to the property would have been done during the original construction of the rail Line.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

Response: None.

(9) Within 30 days of receipt of the Historic Report, the State Historic Preservation Officer may request the following additional information regarding specified nonrailroad owned properties or groups of properties immediately adjacent to the railroad right-of-way. Photographs of specified properties that can be readily seen from the railroad right-of-way (or other public right-of-way adjacent to the property) and a written description of any previously discovered archeological sites, identifying the locations and type of the site (i.e., prehistoric or native American).

Response: Not applicable.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Scott Bannister', written over a horizontal line.

T. Scott Bannister
Counsel for Iowa River Railroad, Inc.

CERTIFICATION PURSUANT TO 49 C.F.R. 1105.7(c)

Iowa River Railroad, Inc., by and through its authorized representative, T. Scott Bannister, certifies that on January 17, 2012, copies of the draft Environmental and Historical Reports were sent by first class mail to the following agencies:

Mayor Jim Daggs
City Hall
208 State Street
Ackley, IA 50601

Mayor
Steamboat Rock City Hall
512 Market St.
Steamboat Rock, IA 50672

Mayor James R. Brown
Eldora City Hall
1442 Washington Street
Eldora, IA 50627

Marshall County Board of Supervisors
Marshall County Courthouse
1 E Main St
Marshalltown, IA 50158

Mayor Gene Beach
24 N. Center St.
Marshalltown, IA 50158

Iowa Department of Economic Development
(State Clearinghouse)
Division of Community Progress
200 East Grand Avenue
Des Moines, IA 50309

United States Army Corps of Engineers
Mississippi Valley Division
1400 Walnut Street
P. O. Box 80
Vicksburg, MS 39181

US Fish and Wildlife Service-Region 3
One Federal Drive, BHW Federal Building
Ft. Snelling, MN 55111

National Park Service - Midwest Region
601 Riverfront Drive
Omaha, NE 68102

USDA-NRCS
693 Federal Building
210 Walnut Street
Des Moines, IA 50309

US EPA - Region 7
901 N. 5th Street
Kansas City, KS 66101

Iowa Department of Natural Resources
Environmental Protection Division
Wallace State Office Building
502 East 9th Street
Des Moines, IA 50319

NOAA -National Geodetic Survey
Geodetic Services Division
Room 9292. NGS/12
1315 East-West Hwy
Silver Spring, MD 20910-3282

Iowa State Historical Society
Review and Compliance
600 East Locust Street
Des Moines, IA 50319


T. SCOTT BANNISTER

Dated: March 27, 2012

EXHIBIT "A"

Map of the Line

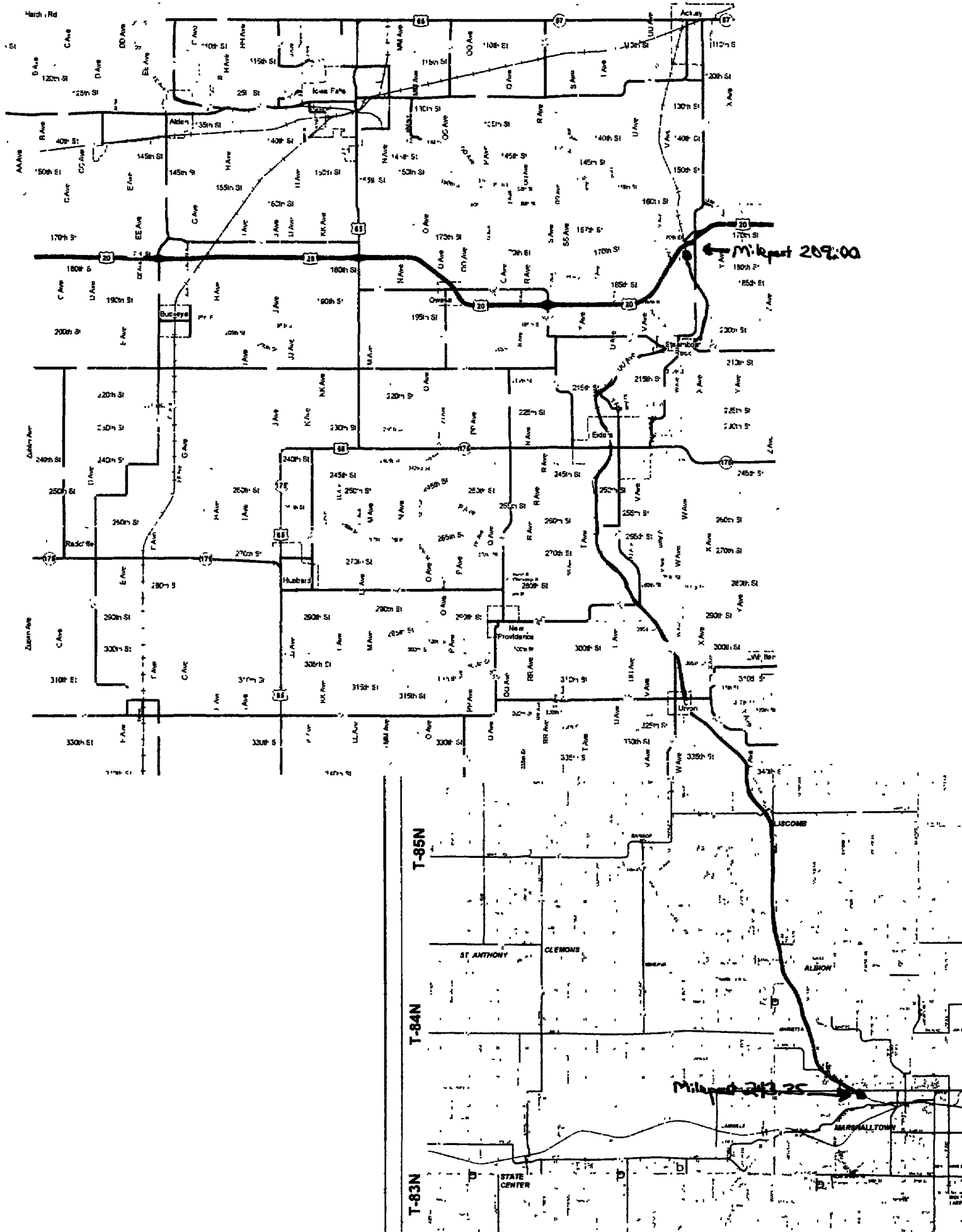


EXHIBIT “B”

RESPONSES TO DRAFT ENVIROMENTAL AND HISTORIC REPORT

Scott Bannister

From: Simon Monroe [simon.monroe@noaa.gov]
Sent: Thursday, March 08, 2012 3:29 PM
To: sbannister@iowanorthern.com
Cc: Surface Transportation Board, Surveyorlady@yahoo.com, Gilbert Mitchell; Simon Monroe
Subject: NGS Response, STB Docket AB-1072X

>
> Thank you for sharing your railroad abandonment environmental report
> for
>
> MARSHALLTOWN, Marshall, Hardin Counties, IOWA.
>
>
>
> Approximately 00 geodetic survey marks may be located in the area
> described.
> If marks will be disturbed by the abandonment, [THE RAILROAD] shall
> consult with the National Geodetic Survey (NGS) at least 90 days prior
> to beginning salvage activities that will disturb, or destroy any
> geodetic station
>
> marks described on the attached file. Additional advice is provided
> at <http://geodesy.noaa.gov/marks/railroads/>
>

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No Stations Found.

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>
>



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
ROGER L. LANDE, DIRECTOR

February 13, 2012

T Scott Bannister & Associates
Attn: T Scott Bannister
111 56th St
Des Moines IA 50312

RE: Environmental Review for Natural Resources
Docket No. AB-1072 X Iowa River Railroad Inc

Marshall and Hardin County
Section , Township N, Range W
Various locations

Dear Mr. Bannister,

Thank you for inviting Department comment on the impact of this project. The Department has searched for records of rare species and significant natural communities in the project area and found no site-specific records that would be impacted by this project. However, these records and data are not the result of thorough field surveys. If listed species or rare communities are found during the planning or construction phases, additional studies and/or mitigation may be required.

This letter is a record of review for protected species, rare natural communities, state lands and waters in the project area, including review by personnel representing state parks, preserves, recreation areas, fisheries and wildlife but does not include comment from the Environmental Services Division of this Department. This letter does not constitute a permit. Other permits may be required from the Department or other state or federal agencies before work begins on this project.

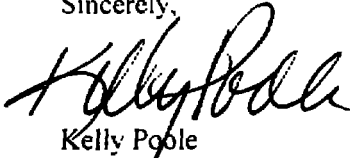
Any construction activity that bares the soil of an area greater than or equal to one acre including clearing, grading or excavation may require a storm water discharge permit from the Department. Construction activities may include the temporary or permanent storage of dredge material. For more information regarding this matter, please contact Ruth Rosdail at (515) 281-6782.

The Department administers regulations that pertain to fugitive dust IAW Iowa Administrative Code 567-23.3(2)"c." All persons shall take reasonable precautions to prevent the discharge of visible emissions of fugitive dusts beyond the lot line of property during construction, alteration, repairing or demolishing of buildings, bridges or other vertical structures or haul roads. All questions regarding fugitive dust regulations should be directed to Jim McGraw at (515) 242-5167.

Please reference the following IDNR Environmental Review/Sovereign Land Program tracking number assigned to this project in all future correspondence related to this project: 7021.

If you have questions about this letter or require further information, please contact me at (515) 281-8967.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Poole", written in a cursive style.

Kelly Poole
Environmental Specialist
Conservation and Recreation Division

FILE COPY Kelly Poole

Tracking Number 7021

cmz



DEPARTMENT OF THE ARMY
ROCK ISLAND DISTRICT CORPS OF ENGINEERS
CLOCK TOWER BUILDING
PO BOX 2004
ROCK ISLAND, ILLINOIS 61204-2004
January 31, 2011

REPLY TO
C. C. HIGGINS

Planning, Programs, and
Project Management Division

Mr. I. Scott Bannister, Esq.
Counsel for Iowa River Railroad, Inc.
111 - 56th Street
Des Moines, Iowa 50312

Dear Mr. Bannister:

I received your letter dated December 30, 2010, concerning proposed abandonment of the Iowa River Railroad's line located between Ackley and Marshalltown, Iowa (Milepost 201.46 to 243.35). Rock Island District Corps of Engineers staff reviewed the information you provided and have the following comments:

a. Your proposal does not involve Rock Island District administered land, therefore, no further Rock Island District real estate coordination is necessary. However, the information supplied was not sufficient to determine if the project would affect the Marshalltown Local Flood Protection Project. Additional details are needed about the endpoint for our Emergency Management Division to comment. Please contact Ms. Sarah Jones of our Emergency Management Division by writing to the address above. Attn: Ms. Sarah Jones (CEMVR-EM). You may also contact Ms. Jones by telephoning 309/794/5206.

b. Your project, as proposed, does not require a Department of the Army Section 404 permit. We made this determination because at this time the proposed project does not indicate discharge of dredged or fill material into waters of the United States (including jurisdictional wetlands).

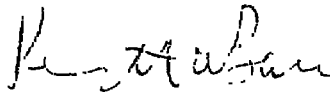
c. The Federal Emergency Management Agency (FEMA) should be contacted to request floodplain information. The FEMA Region 7 Office address is: 9221 Ward Parkway, Suite 300, Kansas City, Missouri 64114-3372. You can reach them by calling 816/285-7061.

d. The Iowa Emergency Management Division should be contacted to determine if the proposed project may impact areas designated as floodway. Mr. John Wagman is the Iowa State Hazard Mitigation Team leader. His address is: 7105 NW 70th Avenue, Camp Dodge-Building, W4, Johnston, Iowa 50131. You can reach him by calling 515/725-3231.

No other concerns surfaced during our review. Thank you for the opportunity to comment on your proposal. If you need more information, please call Mr. Randy Kracum of our Environmental and Economic Branch, telephone 309/794-5174.

You may find additional information about the Corps' Rock Island District on our website at <http://www.mvr.usace.army.mil>. To find out about other Districts within the Corps, you may visit <http://www.usace.army.mil/about/Pages/Locations.aspx>.

Sincerely,

A handwritten signature in black ink, appearing to read "K. A. Barr".

Kenneth A. Barr
Chief, Environmental and
Economic Branch



Natural Resources Conservation Service
210 Walnut Street, Room 693
Des Moines, IA 50309-2180

January 18, 2011

T. Scott Bannister and Associates
111 56th Street
Des Moines, Iowa 50312

RE: Abandonment of 41.9 Miles Railroad Line between Marshalltown and Ackley, Iowa

Dear Mr. Bannister:

The issues with the 100 year flood plain, local land use and historic significances will be addressed by other agencies.

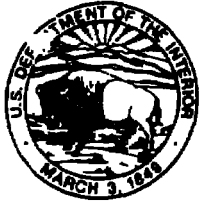
NRCS is in agreement that if the railroad is abandoned and the rails and ties are removed and all work is completed from the roadbed there will be no conversion of prime farmland or adverse effect on agricultural wetlands.

Thank you for the opportunity to comment on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "John Myers", is written over a horizontal line.

John Myers
State Resource Conservationist



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Bishop Henry Whipple Federal Building
1 Federal Drive
Fort Snelling MN 55111-4056

IN REPLY REFER TO

FWS/NWRS-RE - General
Railroad Abandonments

January 10, 2011

Mr. T. Scott Bannister, Esq.
T. Scott Bannister and Associates
Attorney and Counselor at Law
111 - Fifty Sixth Street
Des Moines, Iowa 50312

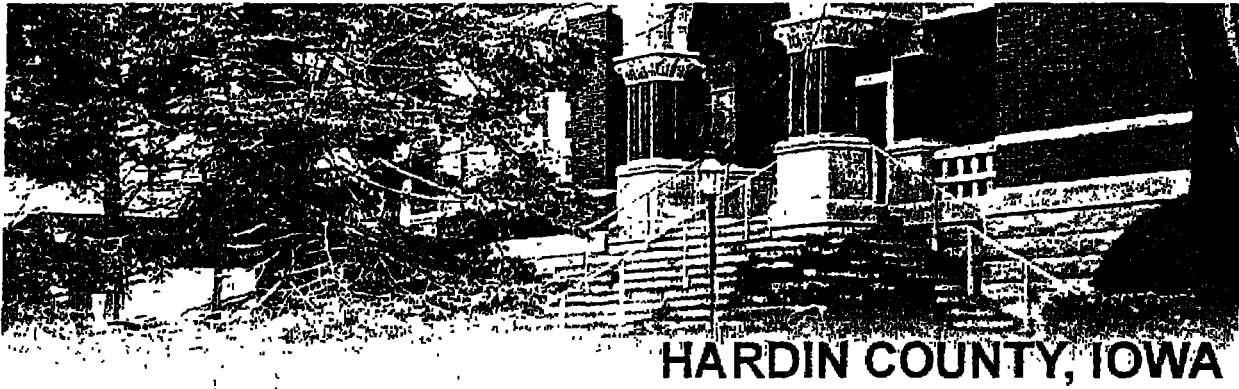
Dear Mr. Bannister:

Thank you for the opportunity to comment on the proposed abandonment of service on 41.89 miles of railroad line between Milepost 201.46 near Ackley, Iowa, and Milepost 243.35 near Marshalltown, Iowa, STB Docket No. AB-1072X.

We have researched our ownerships in the vicinity and have determined we do not own any lands or interests in land in the vicinity of the proposed rail line abandonments. We do not have any concerns regarding real estate matters in the abandonments.

Sincerely,

Patrick G. Carroll
Senior Realty Officer
Division of Realty



Hardin County
Board of Supervisors

1215 Edgington Ave., Suite 1
Eldora, Iowa 50627
Fax: 641.939.8223

January 12, 2011

Iowa River Railroad
T. Scott Bannister and Associates
111 – Fifty Sixth St.
Des Moines, IA 50312
Re: Iowa River Railroad

Dear Mr. Bannister;

The Hardin County Board of Supervisors has received notice of the Iowa River Railroad, Inc. intent to Petition for Exemption of the line between Ackley and Marshalltown (M.P 201.46-M.P 243.35).

We do not anticipate or recognize any adverse environmental effects due to the abandonment of this rail system.

Because this corridor travels through the Iowa River Greenbelt it is consistent with the conservation plans for public use as a recreational trail for biking or hiking.

Thank you.

Sincerely,

Jim Johnson, Chair
Hardin County Board of Supervisors

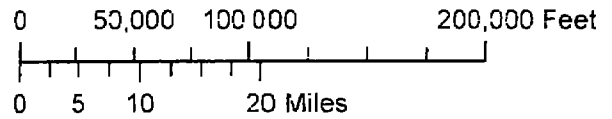
Jim Johnson, Chair
641.939.8220
jjohnson@hardincountyia.gov

Lance Granzow
641.939.8221
lgranzow@hardincountyia.gov

Brian Lauterbach
641.939.8222
blauterbach@hardincountyia.gov

Hardin County

Flood Plain



Legend

- Divided Highway
- Paved Road
- Level A Road (Gravel)
- Level B Road (Dirt)
- Level C Road - No Public Access
- Railroad
- Water
- 1% Annual Chance Floodplain Boundary
- Incorporated Towns
- Political Township
- Section

Aiden	Hardin		Etna
Buckeye	Ellis	Jackson	Gray
Sherman	Tipton	Pleasant	Eldora
Concord	Grant	Providence	Union

The Hardin County GIS Department does not warrant this map to be free from errors or inaccuracies and disclaims any responsibility for interpretations from this map or decision based thereon. Any errors or omissions should be reported to the Hardin County GIS Department.

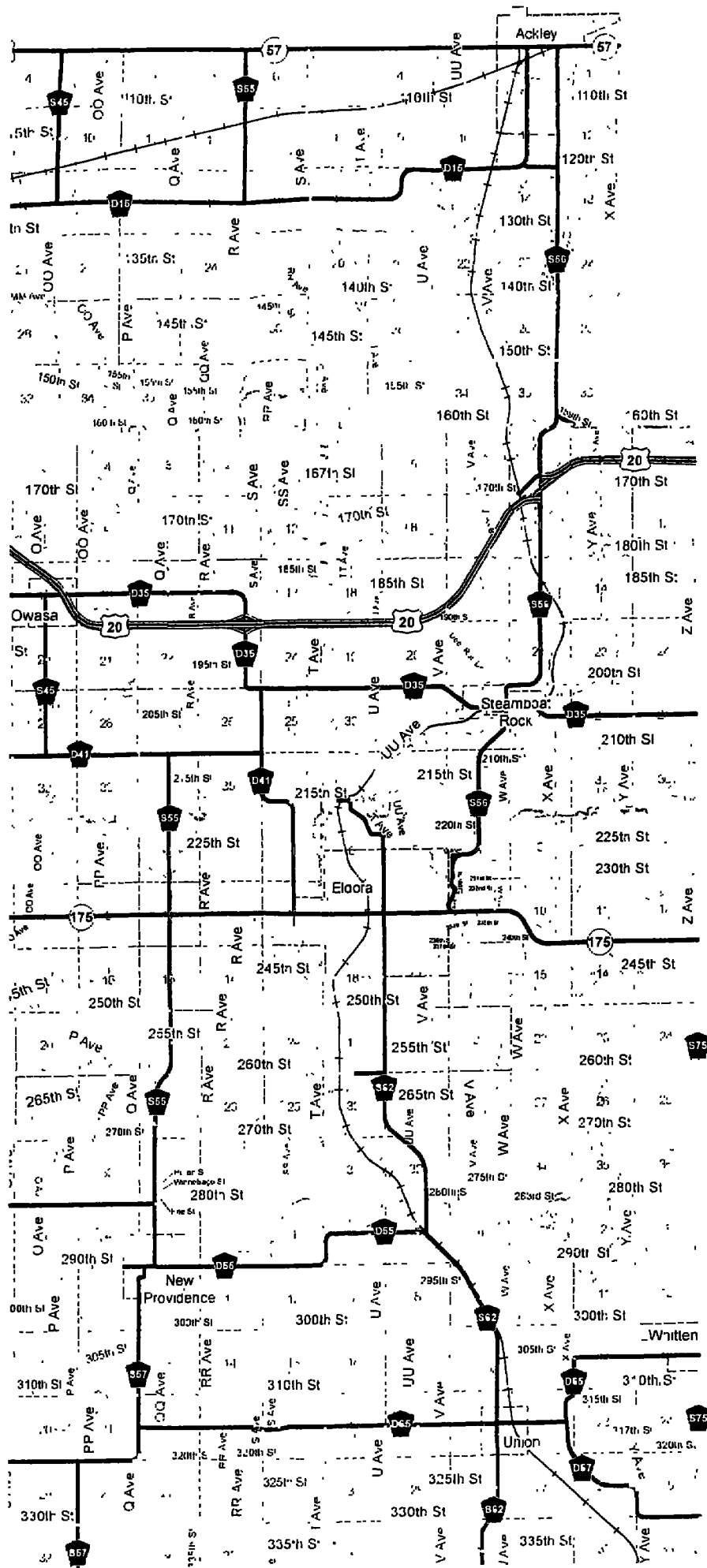
Copyright © 2011 by Hardin County, Iowa, its affiliates and licensors. All Rights Reserved.

Printed: 6 JAN 2011

To order additional Hardin County maps, call:

641-934-7590 or e-mail: gis@hardincountyia.gov

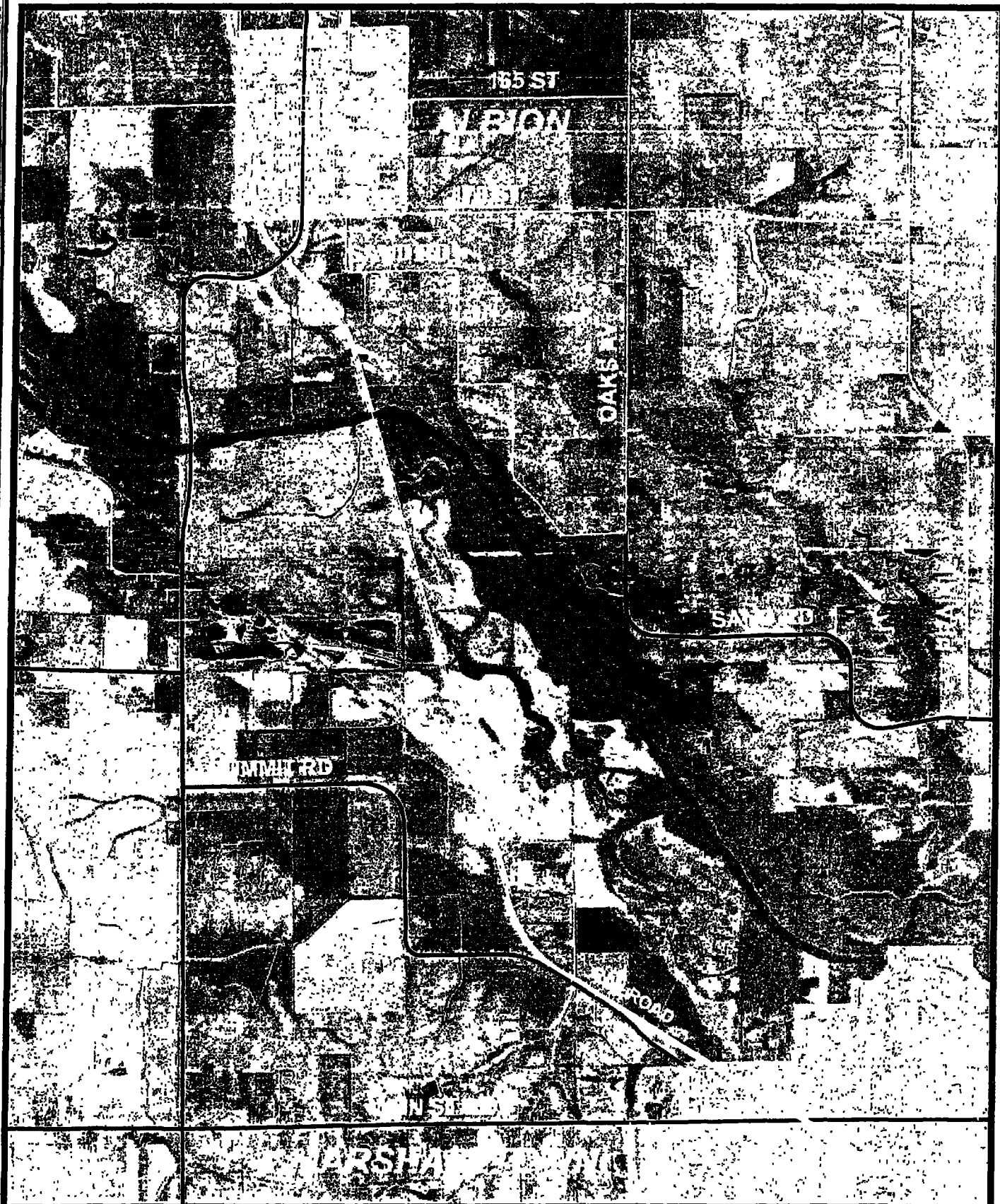
Hardin County
GIS Department
708 - 16th Street
Eldora, Iowa 50627



Marshall County Planning Zoning and Environmental Health
1 E Main St
Marshalltown, IA 50158

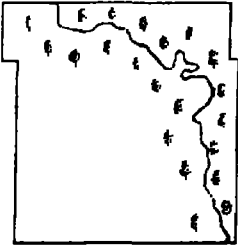
ACKLEY - MARSHALLTOWN RAILROAD & MARSHALL COUNTY FLOOD ZONE

NOTE: Flood Zone locations are a digital representation. Actual location may vary.



Hardin County Conservation Board

(Iowa River Green Belt)



Hardin County Conservation Board
Headquarters
15537 S Avenue
Ackley, Iowa 50601-7734
Phone: 641-648-4361
FAX: 641-648-2739
E mail: hardinccb@gmail.com

Calkins Nature Area
18335 135th Street
Iowa Falls, Iowa 50126-8511
Phone: 641-648-9878
FAX: 641-648-9878
E mail:
naturecenter@hardincountyconservation.com

January 10, 2011

Iowa River Railroad
T. Scott Bannister and Associates
111-Fifty Sixth St.
Des Moines, IA 50312

RE: Iowa River Railroad

Dear Mr. Bannister:

The Hardin County Conservation Board has received notice of the Iowa River Railroad, Inc. intent to Petition for Exemption of the line between Ackley and Marshalltown (M.P 201.46-M.P 243.35).

We do not anticipate or recognize any adverse environmental effects due to the abandonment of this rail system.

Because this corridor travels through the Iowa River Greenbelt it is consistent with the conservation plans for public use as a recreational trail.

Thank You,

A handwritten signature in black ink, appearing to read "Wes Wiese".

Wes Wiese
Director Hardin County Conservation Board
15537 S. Ave
Ackley, Iowa 50601

Scott Bannister

From: Simon Monroe [Simon.Monroe@noaa.gov]
Sent: Wednesday, February 23, 2011 10:56 AM
To: sbannister@iowanorthern.com
Cc: Surface Transportation Board, Surveyorlady@yahoo.com; Gilbert Mitchell, Simon Monroe
Subject: NGS Response, STB Docket AB-1072X

Thank you for sharing your railroad abandonment environmental report for
Marshalltown, Marshall,& Hardin Counties, IOWA.

Approximately 01 geodetic survey marks may be located in the area described.
If marks will be disturbed by the abandonment, [THE RAILROAD] shall
consult with the National Geodetic Survey (NGS) at least 90 days prior to
beginning salvage activities that will disturb, or destroy any geodetic
station marks described on the attached file. Additional advice is provided
at <http://geodesy.noaa.gov/marks/railroads/>

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|....|NK0337|. 2|88/ADJUSTED|N422930.....|W0930410.....|C...|Y 30

Scott Bannister

From: Jones, Doug [DCA] [Doug.Jones@iowa.gov]
Sent: Thursday, February 03, 2011 12:43 PM
To: sbannister@iowanorthern.com
Cc: Jones, Doug [DCA]; Christian, Ralph [DCA]; Strand, June [DCA]
Subject: 110100018 STB Docket No AB-1072X Iowa River Railroad Inc between MP 201.46 near Ackley to MP 243.35 near Marshalltown

Dear Mr. Bannister,

We have received your correspondence regarding the above referenced undertaking. Thank you for notifying our office about this proposed undertaking. We note that you did not provide any historical background research with your submittal. We did do a quick check of our inventory, and it does not appear that we have any information on whether this particular railroad line segment would be historically significant or whether any other types of historic properties such as railroad bridges might be present that could be potentially eligible for listing on the National Register of Historic Places.

We will need more information on what types of cultural resources may be present in this railroad corridor before we will be able to provide any further comments as to whether this undertaking will affect any historic properties. Specifically, we request that a reconnaissance survey be conducted on this segment to identify what cultural resources (sites, objects, or structures) may exist within this corridor. Also, we would recommend that historical background research on this line segment be conducted as part of this reconnaissance survey. Once we have received this information, we will be able to provide further comments on this undertaking. If you have any questions about our recommendation to conduct a Reconnaissance Survey, please feel free to contact myself or Ralph Christian, our Historian, at (515) 281-8697.

Douglas W. Jones, Archaeologist and Review and Compliance Program Manager
State Historic Preservation Office
State Historical Society of Iowa
(515) 281-4358



STATE OF IOWA

TERRY E. BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
ROGER L. LANDE, DIRECTOR

February 13, 2012

T Scott Bannister & Associates
Attn: T Scott Bannister
111 56th St
Des Moines IA 50312

RE: Environmental Review for Natural Resources
Docket No. AB-1072 X Iowa River Railroad Inc

Marshall and Hardin County
Section , Township N, Range W
Various locations

Dear Mr. Bannister,

Thank you for inviting Department comment on the impact of this project. The Department has searched for records of rare species and significant natural communities in the project area and found no site-specific records that would be impacted by this project. However, these records and data are not the result of thorough field surveys. If listed species or rare communities are found during the planning or construction phases, additional studies and/or mitigation may be required.

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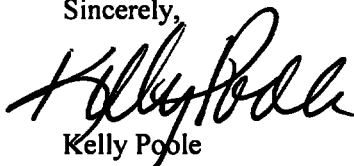
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Please reference the following IDNR Environmental Review/Sovereign Land Program tracking number assigned to this project in all future correspondence related to this project: 7021.

If you have questions about this letter or require further information, please contact me at (515) 281-8967.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Poole", written in a cursive style.

Kelly Poole
Environmental Specialist
Conservation and Recreation Division

FILE COPY Kelly Poole


Tracking Number 7021

cmz

Please reference the following IDNR Environmental Review/Sovereign Land Program tracking number assigned to this project in all future correspondence related to this project: 7021.

If you have questions about this letter or require further information, please contact me at (515) 281-8967.

Sincerely,

A handwritten signature in black ink, appearing to read "Kelly Poole", written in a cursive style.

Kelly Poole
Environmental Specialist
Conservation and Recreation Division

FILE COPY Kelly Poole

Tracking Number 7021

cmz

Scott Bannister

From: Simon Monroe [simon.monroe@noaa.gov]
Sent: Thursday, March 08, 2012 3:29 PM
To: sbannister@iowanorthern.com
Cc: Surface Transportation Board; Surveyorlady@yahoo.com, Gilbert Mitchell; Simon Monroe
Subject: NGS Response, STB Docket AB-1072X

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> MARSHALLTOWN, Marshall, Hardin Counties, IOWA.
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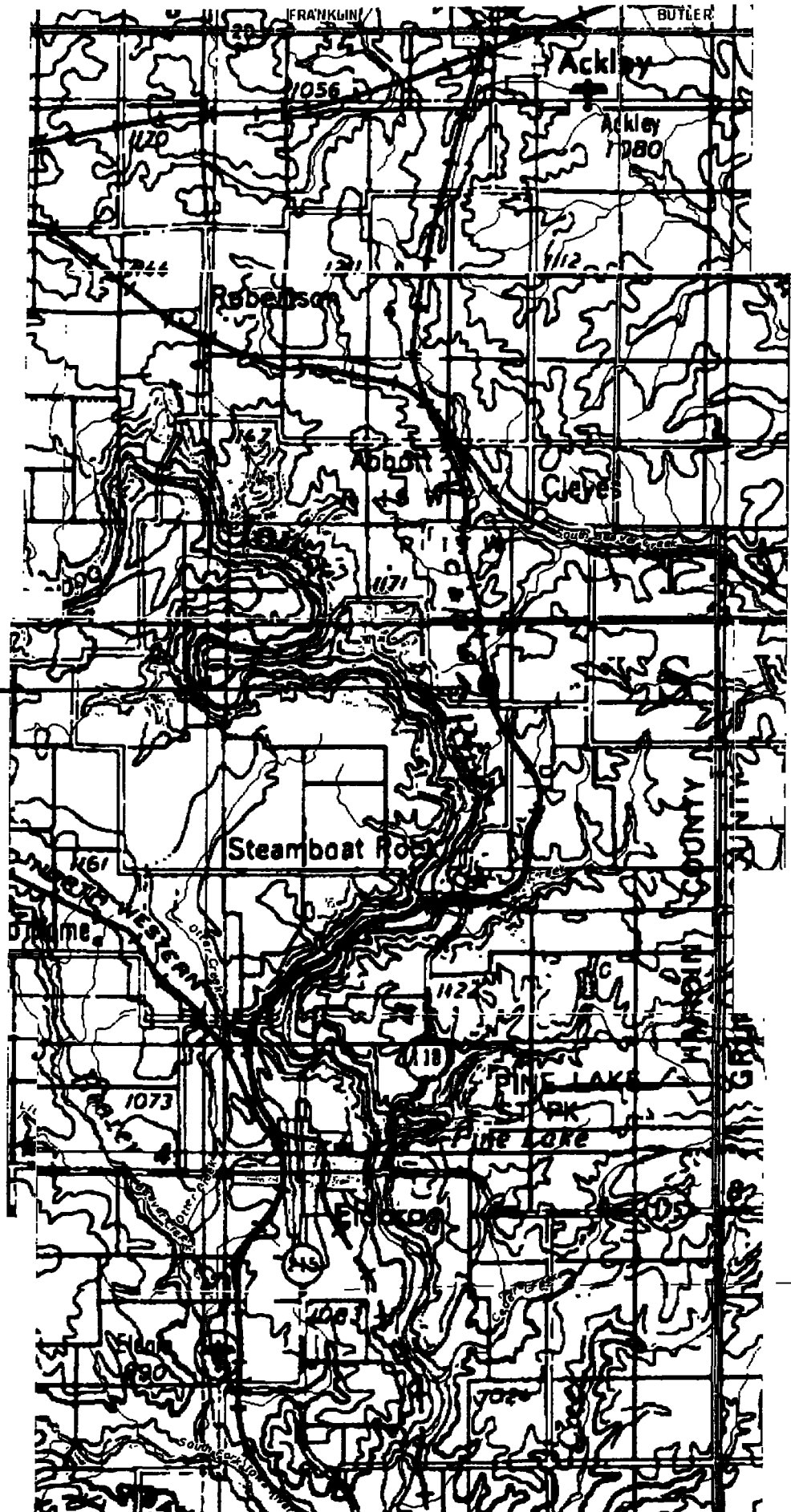
No Stations Found.

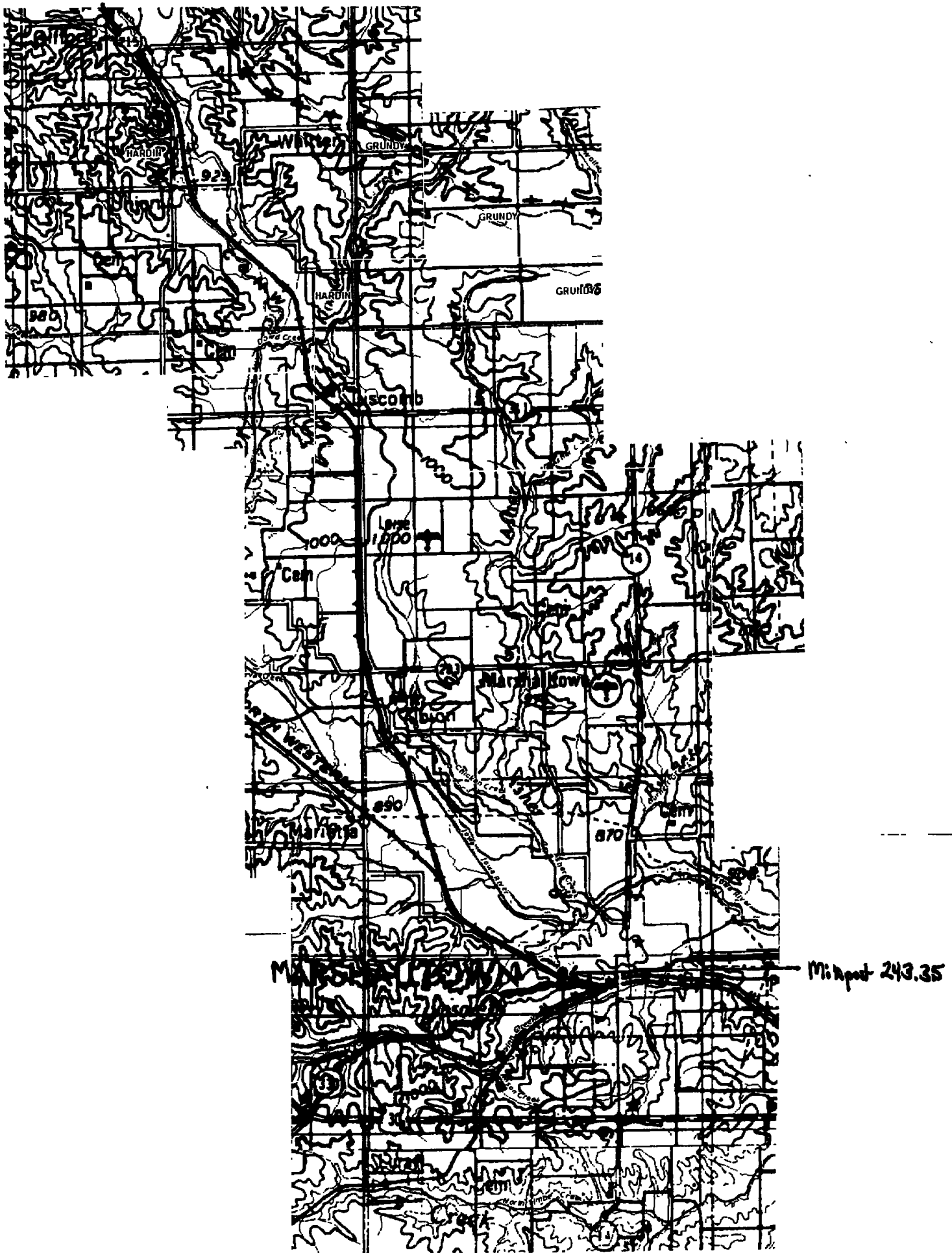
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APPENDIX “1”

Topographic Map

Midpoint 209.00





APPENDIX “2”

Bridge Structure Photographs



M. 10. 212.5 (Strawberry Post)



Milepost 221.74 (Garfield)



Milaport 227.13 (unseen)



M: 1928-237.8 (South of ALBANY)

APPENDIX 5

Draft Federal Register Notice

STB DOCKET NO. AB-1072 X - IOWA RIVER RAILROAD, INC. - Abandonment and Discontinuance Exemption in Marshall and Hardin Counties, Iowa

Notice of Petition for Exemption to Abandon a Rail Line and to Discontinue Service

On or about April 17, 2012, Petitioner, **IOWA RIVER RAILROAD, INC.**, filed with the Surface Transportation Board, Washington, D.C. 20423, a petition for exemption for the abandonment of and discontinuance of service on a line of railroad located between Milepost 209.00 and Milepost 243.35 (at or near Marshalltown, Iowa), all within Marshall and Hardin Counties, Iowa, a distance of approximately 34.35 miles (the "Line"), which traverses through U.S. Postal Zip Codes 50005, 50158, 50627, 50258 and 50259 in Marshall and Hardin Counties, State of Iowa.

The Line for which the abandonment exemption request was filed includes the stations of Marshalltown (MP 243.35), Bethel, Minerva Junction, Albion (MP 236.9), Liscomb (MP 232.6), Union (MP 225.9), Eldora (MP 216.58), and Steamboat Rock (MP 212.30), State of Iowa.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the employee protective conditions set forth in *Oregon Short Line R.Co. - Abandonment - Goshen*, 360 I.C.C. 91 (1979).

Any offer of financial assistance will be due no later than (ten) 10 days after service of a decision granting the petition for exemption.

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use.

Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the **Federal Register**.

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

APPENDIX 6

Newspaper Notices

Affidavit of Publication

STATE OF IOWA,
Marshall County, ss.

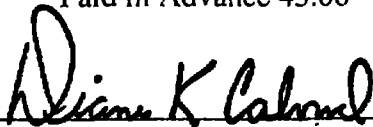
TS Bannister Law Notice of Intent to file A
petition for exemption to abandon Iowa River Railroad.
Inc. From Steamboat Rock to Marshalltown.

I, Diane Caloud, being first duly sworn, on oath depose and say that Marshalltown Newspaper, LLC is a corporation for pecuniary profit organization under the law of the State of Iowa, with its principal place of business in Marshalltown, Iowa; that the "Times-Republican" is a daily newspaper of general circulation printed wholly in the English language and published by said corporation at the city of Marshalltown, in Marshall County, Iowa; that I am the Accounting Manager of said corporation and have personal knowledge of the facts stated herein; that the Notice hereto attached in the above entitled action was published in the regular daily edition of the said "Times-Republican" once each week for:

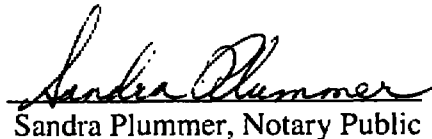
Two

consecutive weeks on the days and dates as follows, to-wit:
March 21, 2012

Statutory fees for publishing said notice are:
Paid in Advance 43.06



Sworn to before me and subscribed in my
presence by the said Diane Caloud this
Twenty-first Day of March., 2012



Sandra Plummer, Notary Public
Marshall County, Iowa
Commission No. 766297
Commission Expires January 14, 2014

Account No. and Account Name
L45263 TS Bannister Law



PUBLIC NOTICE
NOTICE OF INTENT TO FILE A
PETITION FOR EXEMPTION
TO ABANDON
Iowa River Railroad, Inc. gives notice that on or about the 30th day of March, 2012, it intends to file with the Surface Transportation Board, (STB?), Washington, DC 20423, a Petition for Exemption for Abandonment concerning a rail line located between Milepost 209.00 and Milepost 243.35 (air or near Marshalltown, Iowa) all within Marshall and Hardin Counties, Iowa, a distance of approximately 34.35 miles (the "Line"). The proceeding will be docketed as No. AB-1072X. The Line is located within U.S. Postal Zip Codes 50005, 50158, 50627, 50258 and 50259. The Line for which the abandonment exemption petition is filed includes the stations of Steamboat Rock, Eldora, Gifford, Union, Liscomb, Albion and Marshalltown, Iowa. The Line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected as required by applicable law. The STB's Section of Environmental Analysis, (SEA?), will generally prepare an Environmental Assessment (EA), which will normally be available 60 days after the filing of the Notice of Exemption and will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Comments on environmental and energy matters should be filed no later than 30 days after the EA becomes available to the public and will be addressed in a STB decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423 or by calling that office at

202.565.1545. Appropriate offers of financial assistance to continue rail service can be filed with the STB. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the STB. Any offer of financial assistance will be due no later than 10 days after service of a decision granting the petition for exemption. All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including intermodal use. Any request for a public use condition and any request for trail use/rail banking will be due no later than 20 days after notice of the filing of the petition for exemption is published in the Federal Register. Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis. Copies of any comments or requests for conditions should be served on the applicant's representative, T. Scott Bannister, 1117 SW 56th Street, Des Moines, Iowa 50312. (Telephone No. 349-361-3067 or Telefax No. 515-277-4012) or at email address: tsbannisterlaw@gmail.com. 12516

Affidavit of Publication

STATE OF IOWA,
Marshall County, ss.

T Scott Bannister
Iowa River Railroad, Inc. System Diagram Notice (AB - 1072X)

I, Sandra Plummer, being first duly sworn, on oath depose and say that Marshalltown Newspaper, Inc. is a corporation for pecuniary profit organization under the law of the State of Iowa, with its principal place of business in Marshalltown, Iowa; that the "Times-Republican" is a daily newspaper of general circulation printed wholly in the English language and published by said corporation at the city of Marshalltown, in Marshall County, Iowa; that I am the Accounts Receivable Clerk of said corporation and a full time employee of the said newspaper, and have personal knowledge of the facts stated herein; that the Notice hereto attached in the above entitled action was published in the regular daily edition of the said "Times-Republican" once each week for:

One

consecutive weeks on the days and dates as follows, to-wit:
November 13, 2010

Statutory fees for publishing said notice are:
20.35

Sandra Plummer
Sworn to before me and subscribed in my
presence by the said Sandra Plummer this
Seventeenth day of November, 2010

Diane Caloud
Diane Caloud, Notary Public
Tama County, Iowa
Commission No. 716222
Commission Expires April 25, 2011

Account No. and Account Name
L44409 T Scott Bannister



PUBLIC NOTICE
IOWA RIVER RAILROAD, INC.
SYSTEM DIAGRAM NOTICE
(AB - 1072X)
Pursuant to Sections 1152.1 and 1152.12 of Title 49 of the Code of Federal Regulations Iowa River Railroad, Inc., an Iowa corporation, hereby gives notice that the following line has been categorized as a CATEGORY ONE (1) Line, in which Iowa River Railroad, Inc. anticipates the Line will be the subject of an abandonment or discontinuance application (which may be on an exempt basis) to be filed within the three-year period following the date upon which this System Diagram Notice is filed with the Surface Transportation Board.
a. The line to be abandoned is located between a point at or near Ackley, Iowa (at Milepost 201.46) and at or near Marshalltown, Iowa (at Milepost 243.35) (a distance of 41.89 miles) and known as the Line.
b. The entire Line is located within the State of Iowa.
c. The entire Line is located within Hardin and Marshall Counties, Iowa.
d. The Line is located between Milepost 201.46 which is at or near Ackley, Iowa and Milepost 243.35 at or near Marshalltown, Iowa.
e. There are no agency or terminal station operations located on the Line.
For more information, including additional copies of the System Diagram Notice, please contact T. Scott Bannister, Bannister and Associates, 111 56th Street, Des Moines, Iowa 50312.
IOWA RIVER RAILROAD, INC.
-009355-

CERTIFICATE OF SERVICE

I, T. Scott Bannister, hereby certify that a copy of the Petition for Exemption was served on the following parties, by first class U.S. mail, postage prepaid on the 16th day of April, 2012:

Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319

Director - Office of Rail Transportation
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

U. S. Department of Agriculture
Chief of the Forest Service
Sidney R. Yates Federal Building
1400 Independence Avenue, S.W.
Washington, DC 20250-0003

National Park Service
Regional Director - Midwest Region
601 Riverfront Drive
Omaha, NE 68102

U.S. Dept. of Interior - National Park Service
Acting Associate Director
Cultural Resources, Room 3126
1849 "C" Street, NW
Washington, DC 20240

United States Dept. of Defense - SDDCTEA
Railroads for the National Defense Program
709 Ward Drive, Bldg. 1900, Room 2E264
Scott AFB, IL 62225


T. Scott Bannister

Dated: April 16, 2012

Affidavit of Publication

STATE OF IOWA,
Marshall County, ss.

TS Bannister Law Notice of Intent to file A
petition for exemption to abandon Iowa River Railroad,
Inc. From Steamboat Rock to Marshalltown.

I, Diane Caloud, being first duly sworn, on oath depose and say that Marshalltown Newspaper, LLC is a corporation for pecuniary profit organization under the law of the State of Iowa, with its principal place of business in Marshalltown, Iowa; that the "Times-Republican" is a daily newspaper of general circulation printed wholly in the English language and published by said corporation at the city of Marshalltown, in Marshall County, Iowa; that I am the Accounting Manager of said corporation and have personal knowledge of the facts stated herein; that the Notice hereto attached in the above entitled action was published in the regular daily edition of the said "Times-Republican" once each week for:

Two

consecutive weeks on the days and dates as follows, to-wit:
March 21, 2012

Statutory fees for publishing said notice are:
Paid in Advance 43.06

Diane K Caloud

Sworn to before me and subscribed in my
presence by the said Diane Caloud this
Twenty-first Day of March., 2012

Sandra Plummer

Sandra Plummer, Notary Public
Marshall County, Iowa
Commission No. 766297
Commission Expires January 14, 2014

Account No. and Account Name
L45263 TS Bannister Law



PUBLIC NOTICE
NOTICE OF INTENT TO FILE A
PETITION FOR EXEMPTION
TO ABANDON
Iowa River Railroad Inc. gives
notice that on or about the 30th
day of March, 2012, it intends
to file with the Surface Trans-
portation Board (STB),
Washington, DC 20423, a Peti-
tion for exemption to abandon
certain portions of a rail line
located between Milepost
209.00 and Milepost 273.35 (at
present Marshalltown, Iowa), all
within Marshall and Hardin
Counties, Iowa, a distance of
approximately 64.35 miles (the
line) and proceeds to be
located at No. A-110-2X.
The line is located within U.S.
Route 72, Box 50006,
Steamboat Rock, Iowa, and
proceeds to be located at
the intersection of the line
and the line of the Iowa River
Railroad, Inc. The line is
located on the right of way
granted to the Iowa River
Railroad, Inc. Any docu-
mentation in the railroad's
possession will be made avail-
able upon request. The request-
ing party will be protected as
required by applicable law. The
STB's Section of Environmen-
tal Analysis (SEA) will gen-
erally prepare an Environmental
Assessment (EA) which will nor-
mally be available 60 days after
the filing of the Notice of Ex-
emption and will be served
upon all parties of record and
upon all agencies or other per-
sons who commented during the
preparation of comments on en-
vironmental and energy matters
should be filed no later than 60
days after the EA becomes
available to the public and will
be addressed in the STB deci-
sion. Interested persons may
obtain a copy of the EA or
make inquiries regarding en-
vironmental matters by writing to
the Section of Environmental
Analysis, Surface Transporta-
tion Board, 1925 K Street,
N.W., Washington, DC 20423 or
by calling at that office at

202-565-1545. Appropriate
offers of financial assistance to
continue rail service can be filed
with the STB. Requests for en-
vironmental conditions, public
use conditions, or rail
banking/trails use also can be
filed with the STB. Any offer of
financial assistance will be due
no later than 10 days after ser-
vice of a decision granting the
petition for exemption. All in-
terested persons should be
aware that following abandon-
ment of rail service and salvage
of the line, the line may be suit-
able for other public use, includ-
ing interim trail use. Any request
for a public use condition and
any request for trail use/rail
banking will be due no later
than 20 days after notice of the
filing of the petition for exemp-
tion is published in the Federal
Register. Persons seeking fur-
ther information concerning aban-
donment procedures may con-
tact the Surface Transportation
Board or refer to the full aban-
donment or discontinuance reg-
ulations at 49 CFR part 1152.
Questions concerning environ-
mental issues may be directed
to the Board's Section of En-
vironmental Analysis. Copies of
any comments or requests for
conditions should be served on
the applicant's representative,
TS Bannister Law, 111 E. SW
56th Street, Des Moines, Iowa
50319, telephone No. 515-267-3067 or fax No.
515-267-3012 or at the e-mail
address tsbannisterlaw@gmail.com or
at 202-565-1545.

Affidavit of Publication

STATE OF IOWA,
Marshall County, ss.

T Scott Bannister

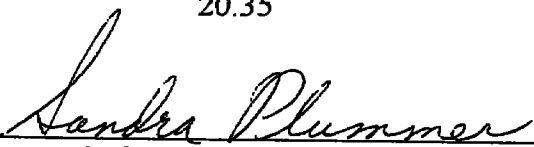
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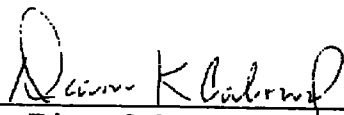
One

consecutive weeks on the days and dates as follows, to-wit:
November 13, 2010

Statutory fees for publishing said notice are:
20.35



Sworn to before me and subscribed in my
presence by the said Sandra Plummer this
Seventeenth day of November, 2010



Diane Caloud, Notary Public
Tama County, Iowa
Commission No. 716222
Commission Expires April 25, 2011

Account No. and Account Name
44409 T Scott Bannister



PUBLIC NOTICE
IOWA RIVER RAILROAD, INC.
SYSTEM DIAGRAM NOTICE
(AB - 1072X)
Pursuant to Sections 1152.1-12 of Title 49 of the Code of Federal Regulations Iowa River Railroad, Inc., an Iowa corporation, hereby gives notice that the following line has been categorized as a CATEGORY ONE (1) Line, in which Iowa River Railroad, Inc. anticipates the line will be the subject of an abandonment or discontinuance application (which may be on an exempt basis) to be filed within the three-year period following the date upon which this System Diagram Notice is filed with the Surface Transportation Board:
a. The line to be abandoned is located between a point at or near Ackley, Iowa (at Milepost 201.46) and at or near Marshalltown, Iowa (at Milepost 243.35) (a distance of 41.89 miles and known as the "Line").
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c. The entire Line is located within Hardin and Marshall Counties, Iowa.
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e. There are no agency or terminal station operations located on the Line.
For more information, including additional copies of the System Diagram Notice, please contact T. Scott Bannister, Bannister and Associates, 111 56th Street, Des Moines, Iowa 50312.
IOWA RIVER RAILROAD, INC.
009355

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Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319

Director - Office of Rail Transportation
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

U. S. Department of Agriculture
Chief of the Forest Service
Sidney R. Yates Federal Building
1400 Independence Avenue, S.W.
Washington, DC 20250-0003

National Park Service
Regional Director - Midwest Region
601 Riverfront Drive
Omaha, NE 68102

U.S. Dept. of Interior - National Park Service
Acting Associate Director
Cultural Resources, Room 3126
1849 "C" Street, NW
Washington, DC 20240

United States Dept. of Defense - SDDCTEA
Railroads for the National Defense Program
709 Ward Drive, Bldg. 1900, Room 2E264
Scott AFB, IL 62225


T. Scott Bannister

Dated: April 16, 2012